



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 15-71; FCC 15-111]

Television Market Modification; Statutory Implementation

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's Report and Order, Television Market Modification; Statutory Implementation. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the Federal Register announcing OMB approval and the effective date of the rules.

DATES: The amendments to 47 CFR 76.59(a) and (b), published at 80 FR 59635, October 2, 2015, are effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, Cathy.Williams@fcc.gov, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on February 18, 2016 and February 19, 2016, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 15-111, published at 80 FR 59635, October 2, 2015. The OMB Control Numbers are 3060-0546 and 3060-0980. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden

estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Numbers, 3060-0546 and 3060-0980, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on February 18, 2016 and February 19, 2016, for the new information collection requirements contained in the Commission's rules at 47 CFR 76.59(a)-(b) and 76.66(d)(6).

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060-0546 and 3060-0980.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0546.

OMB Approval Date: February 18, 2016.

OMB Expiration Date: February 28, 2019.

Title: Section 76.59 Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carriage Rules.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 180 respondents and 200 responses.

Estimated Time per Response: 0.5 to 40 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Total Annual Burden: 1,486 hours.

Total Annual Costs: \$1,387,950.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 303(r), 338 and 534.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: On September 2, 2015, the Commission released a Report and Order (Order), FCC 15-111, in MB Docket No. 15-71, adopting satellite television market modification rules to implement Section 102 of the Satellite Television Extension and Localism Act (STELA)

Reauthorization Act of 2014 (STELAR). The STELAR amended the Communications Act and the Copyright Act to give the Commission authority to modify a commercial television broadcast station's local television market—defined by The Nielsen Company's Designated Market Area (DMA) in which it is located—to include additional communities or exclude communities for purposes of better effectuating satellite carriage rights. The Commission previously had the authority to modify a station's market only in the cable carriage context. Market modification allows the Commission to modify the local television market of a particular commercial television broadcast station to enable commercial television stations, cable operators and satellite carriers to better serve the interests of local communities. Market modification provides a means to avoid rigid adherence to DMA designations and to promote consumer access to in-state and other relevant television programming. Section 338(l) of the Communications Act (the satellite market modification provision) and Section 614(h)(1)(C) of the Communications Act (the corresponding cable provision) permit the Commission to add communities to or delete communities from a station's local television market following a written request. Furthermore, the Commission may determine that particular communities are part of more than one television market.

Section 76.59(a) of the Commission's Rules authorizes the filing of market modification petitions and governs who may file such a petition. With respect to cable market modification petitions, a commercial TV broadcast station and cable system operator may file a market modification petition to modify the local television market of a particular commercial television broadcast station for purposes of cable carriage rights. With respect to satellite market modification petitions, a commercial TV broadcast stations, satellite carrier and county

governmental entity (such as a county board, council, commission or other equivalent subdivision) may file a market modification petition to modify the local television market of a particular commercial television broadcast station for purposes of satellite carriage rights. Section 76.59(b) of the Commission's Rules requires that market modification petitions and responsive pleadings (e.g., oppositions, comments, reply comments) must be submitted in accordance with the procedures for filing Special Relief petitions in Section 76.7 of the rules. Section 76.59(b) of the Commission's Rules requires petitioners (e.g., commercial TV broadcast stations, cable system operators, satellite carriers and county governments) to include the specific evidence in support of market modification petitions.

Section 338(l)(3) of the Communications Act provides that "[a] market determination . . . shall not create additional carriage obligations for a satellite carrier if it is not technically and economically feasible for such carrier to accomplish such carriage by means of its satellites in operation at the time of the determination." If a satellite carrier opposes a market modification petition because the resulting carriage would be technically or economically infeasible pursuant to Section 338(l)(3), the carrier must provide specific evidence in its opposition or response to a pre-filing coordination request (see below) to demonstrate its claim of infeasibility. If the satellite carrier is claiming infeasibility based on insufficient spot beam coverage, then the carrier may instead provide a detailed certification submitted under penalty of perjury. Although the Commission will not require satellite carriers to provide supporting documentation as part of their certification, the Commission may decide to look behind any certification and require supporting documentation when it deems it appropriate, such as when there is evidence that the certification may be inaccurate. In the event that the Commission requires supporting

documentation, it will require a satellite carrier to provide its “satellite link budget” calculations that were created for the new community. Because the Commission may determine in a given case that supporting documentation should be provided to support a detailed certification, satellite carriers are required to retain such “satellite link budget” information in the event that the Commission determines further review by the Commission is necessary. Satellite carriers must retain such information throughout the pendency of Commission or judicial proceedings involving the certification and any related market modification petition. If satellite carriers have concerns about providing proprietary and confidential information underlying their analysis, they may request confidentiality.

The Report and Order establishes a “pre-filing coordination” process that will allow a prospective petitioner for market modification (i.e., broadcaster or county government), at its option, to request/obtain a certification from a satellite carrier about whether or not (and to what extent) carriage resulting from a contemplated market modification is technically and economically feasible for such carrier before the prospective petitioner undertakes the time and expense of preparing and filing a satellite market modification petition. To initiate this process, a prospective petitioner may make a request in writing to a satellite carrier for the carrier to provide the certification about the feasibility or infeasibility of carriage. A satellite carrier must respond to this request within a reasonable amount of time by providing a feasibility certification to the prospective petitioner. A satellite carrier must also file a copy of the correspondence and feasibility certification it provides to the prospective petitioner in this docket electronically via ECFS so that the Media Bureau can track these certifications and monitor carrier response time. If the carrier is claiming spot beam coverage infeasibility, then the certification provided by the

carrier must be the same type of detailed certification that would be required in response to a market modification petition. For any other claim of infeasibility, the carrier's feasibility certification must explain in detail the basis of such infeasibility and must be prepared to provide documentation in support of its claim, in the event the prospective petitioner decides to seek a Commission determination about the validity of the carrier's claim. If carriage is feasible, a statement to that effect must be provided in the certification. To obtain a Commission determination about the validity of the carrier's claim of infeasibility, a prospective petitioner must either file a (separate) petition for special relief or its market modification petition.

OMB Control Number: 3060-0980.

OMB Approval Date: February 24, 2016.

OMB Expiration Date: February 28, 2019.

Title: Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues, 47 CFR Section 76.66.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 10,300 respondents; 11,978 responses.

Estimated Time per Response: 1 hour to 5 hours.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement; Once every three years reporting requirement; Recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 325, 338, 339 and 340.

Total Annual Burden: 12,186 hours.

Total Annual Cost: \$24,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On September 2, 2015, the Commission released a Report and Order (Order), FCC 15-111, in MB Docket No. 15-71, adopting satellite television market modification rules to implement Section 102 of the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR). With respect to this collection, the Order amended Section 76.66 of the Commission's Rules by adding a new paragraph (d)(6) that addresses satellite carriage after a market modification is granted by the Commission.

47 CFR Section 76.66(d)(6) addresses satellite carriage after a market modification is granted by the Commission. The rule states that television broadcast stations that become eligible for mandatory carriage with respect to a satellite carrier (pursuant to § 76.66) due to a change in the market definition (by operation of a market modification pursuant to § 76.59) may, within 30 days of the effective date of the new definition, elect retransmission consent or mandatory carriage with respect to such carrier.

A satellite carrier shall commence carriage within 90 days of receiving the carriage election from the television broadcast station. The election must be made in accordance with the requirements of 47 CFR Section 76.66(d)(1).

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

Office of the Secretary.

[FR Doc. 2016-03957 Filed: 2/24/2016 8:45 am; Publication Date: 2/25/2016]